

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of State Parks  
Honolulu, Hawaii  
February 14, 2020

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Hawai'i Island

Amend Prior Board Approval of Nov. 16, 2007, Item E-2: Withdrawal from Governor's Executive Order No. 2876; Set Aside to the County of Hawaii for Park and Recreational Purposes; Authorize Cancellation of Various Encumbrances; Memorandum of Understanding with the County of Hawaii; Construction and Management Right of Entry to the County of Hawaii, Portions of the Land of Keahuolu and Lanihau-Nui, North Kona, Hawaii, Tax Map Keys: 3<sup>rd</sup>/7-5-05:07, 72, 73, 74, 79, 82,83.

*The purpose of the amendment is to change recommendation no. 1 to cancel Executive Order No. 2876 to the Division of State Parks and to change recommendation no. 3 to allow for the re-set aside of the entire area previously under Executive Order No. 2876 to the County of Hawaii.*

The purpose of the amendment is to remove the retention of an approx. 5 acre portion for State Parks from Executive Order No. 2876 and to instead cancel Executive Order No. 2876 and to re-set aside the area to the County of Hawaii for park and recreational purposes.

PURPOSE:

The purpose of this amendment is to remove the requirement for the Division of State Parks to retain an area not to exceed 5.00 acres from Executive Order No. 2876 (EO 2876), while the remainder of EO 2876 was set aside to the County of Hawaii. The Division of State Parks is no longer interested in utilizing this retained area for its Kona Sub-Unit baseyard.

Amend the prior Board approval dated November 16, 2007, to cancel EO 2876 and to re-set aside all of the land to the County of Hawaii. See Exhibit 1.

LEGAL REFERENCE:

Hawaii Revised Statutes § 171-55 as amended

LOCATION:

Portions of the Land of Keahuolu and Lanihau-Nui, North Kona, Hawaii, Tax Map Keys: 3<sup>rd</sup>/7-5-05:07, 72, 73, 74, 79, 82,83.

#### COMMENCEMENT DATE OF AMENDMENT:

To be determined by Chairperson

#### CHAPTER 343-ENVIRONMENTAL ASSESSMENT:

In accordance with the Hawaii Administrative Rules ("HAR") § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," Item 43 that states, "Transfer of management authority over state owned land, such as setting aside of state lands." See Exhibit 2.

#### APPLICANT REQUIREMENTS:

The County of Hawaii shall be required to assist in obtaining all other permits, approvals, etc., required to complete the set-aside. Further, the County of Hawaii shall assist, including payment of cost, etc., in the survey of the Old Kona Airport site.

#### BACKGROUND:

EO 2876, dated October 17, 1977, set aside approximately 103 acres to the Division of State Parks for park and recreational purposes. On November 16, 2007, the Board approved withdrawal of 98 acres from EO 2876 which would be set aside to the County of Hawaii, leaving approximately 5 acres for State Parks to continue to use. The original intent of the approx. 5-acre parcel that was retained under EO 2876 was to ensure a location for the Kona-Sub unit baseyard. As State Parks has obtained another location for said baseyard, the requirement for the set-aside is no longer needed nor desired.

#### REMARKS:

At the time that land with withdrawn from EO 2876 to be set aside to the County of Hawaii, State Parks needed an area for a baseyard. State Parks no longer needs this site for its Kona-Sub Unit baseyard, and has already moved to another site. The site that is currently is use is better located and sufficient for the immediate use. Should a West Hawaii DLNR baseyard be constructed in the future, State Parks may move to that location.

Because there is no longer a need for a portion of EO 2876 to be retained by State Parks, the entire area under EO 2876 can be set aside to the County of Hawaii. To accomplish that, the prior Board action should be amended to cancel EO 2876 and re-set aside the land to the County of Hawaii for park and recreational purposes.

- E. Grant of Easement to the Department of Accounting and General Services (Survey Division) for a six foot wide, 1010 meter long electronic, distance-measuring (EDM) baseline;
- F. Temporary Non-Exclusive access and Utilities Easement (Easement A) being a portion of the Kuakini Highway, granted to the County of Hawaii, under Agenda Item F-3, as amended, BLNR meeting of May 27, 1994, further identified as Grant of Non-Exclusive Easement S-5386;
- G. Unrecorded use agreement with the Department of Defense, State Civil Defense for the placement of a pole and warning system;
- H. Additional encumbrances, rights-of-way and/or easements, known and/or unknown, recorded and/or unrecorded;
- I. Review and approval by the Department of the Attorney General; and
- J. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



Curt A. Cottrell  
Administrator  
Division of State Parks

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE  
Chairperson  
Board of Land and Natural Resources

Attachments: Exhibit 1 – November 16, 2007 submittal  
Exhibit 2 – Exemption Notification

State Of Hawaii  
 DEPARTMENT OF LAND AND NATURAL RESOURCES  
 Division of State Parks  
 Honolulu, Hawaii  
 November 16, 2007

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DIV OF STATE PARKS  
 HILLOH

Board of Land and Natural Resources  
 State of Hawaii  
 Honolulu, Hawaii

SUBJECT: Withdrawal from Governor's Executive Order No. 2876; Set Aside to the County of Hawaii for Park and Recreational Purposes; Authorize Cancellation of Various Encumbrances; Memorandum of Understanding with the County of Hawaii; Construction and Management Right of Entry to the County of Hawaii, Portions of the Land of Keahuolu and Lanihau-Nui, North Kona, Hawaii, Tax Map Keys: 3<sup>rd</sup>/7-5-05:07, 72, 73, 74, 79, 82, 83

CONTROLLING AGENCY OF GEO NO. 2876:

Department of Land and Natural Resources, Division of State Parks

APPLICANT FOR SET ASIDE:

County of Hawaii  
 25 Aupuni Street  
 Hilo, HI 96720

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended

LOCATION:

Portions of the land of Keahuolu and Lanihau-Nui, North Kona, Hawaii, being portions of R.P. 7456, Land Commission Award 8559-B, Apana 11 to William C. Lunalilo; and portions of R.P. 6851, Land Commission Award 8452, Apana 12 to A. Keohokalole, being Parcels 1 and 2 of the land acquired by the Territory of Hawaii from the Trustees of the Liliuokalani Trust, et al by FINAL ORDER OF CONDEMNATION (Law No. 2525) dated November 15, 1948 and recorded in Liber 2183, Pages 459-475 (Land Office Deed 8617); being also Parcel 7 of the land acquired by the Territory of Hawaii from the Trustees of the Liliuokalani Trust and Manuel Gomes by FINAL ORDER OF

Approved by the Board of  
 Land and Natural Resources  
 at its meeting held on

11/16/07

ITEM E-2

9/28/08



CURRENT USE STATUS:

- Governor's Executive Order No. 2876 to the Department of Land and Natural Resources, Division of State Parks for park and recreational purposes;
- General Lease No. S-5156 to the County of Hawaii covering 34.848 acres for park and recreational purposes;
- General Lease No. S-5271 to the County of Hawaii, Department of Parks and Recreation, covering 5.342 acres, to be used solely for the park and recreational purposes of a canoe storage facility;
- Sublease between the County of Hawaii and the Kai'opua Canoe Club covering the area encumbered under General Lease No. S-5271;
- Right-of-entry granted to the County of Hawaii to operate a temporary recreational rink for inline roller hockey under Agenda Item E-2, as amended, BLNR meeting of April 25, 1997;
- Right-of-entry granted to Kai E Hitu Canoe Club under Agenda Item F-1-d, as amended, BLNR meeting of July 11, 1985;
- Grant of Easement to the Department of Accounting and General Services (Survey Division) for a six foot wide, 1,010 meter long electronic, distance-measuring (EDM) baseline, approval granted under Agenda Item F-4, BLNR meeting of May 25, 1984;
- Temporary Non-Exclusive Access and Utilities Easement (Easement A) being a portion of the Kuakini Highway, granted to the County of Hawaii, under Agenda Item F-3, as amended, BLNR meeting of May 27, 1994, further identified as Grant of Non-Exclusive Easement S-5386; and
- Unrecorded use agreement with the Department of Defense, State Civil Defense, for the placement of a pole and warning siren to notify the public of an impending disaster. Approval signed and dated May 24, 1994.

PURPOSE OF SET ASIDE:

Park and recreational purposes.

In 1976, the Board approved two major submittals and an amendment that set the direction for the OKA site.

First, at its meeting of February 27, 1976, under Agenda Item F-5, as amended, the Board authorized a lease of approximately 14.8 acres of the OKA site to the COH (General Lease S-4565 for a term of 10 years to expire on December 7, 1987). The Board delegated to the Chairperson, the authority to develop mutually agreeable lease terms with the COH. Further, the submittal extended the right-of-entry to the increased area to be leased.

Second, at its meeting of April 9, 1976, under Agenda Item F-13, the Board approved and recommended to the Governor of Hawaii, the issuance of an executive order cancelling Executive Order No. 1310 for airport use. Further, the Board approved and recommended to the Governor of Hawaii, the issuance of an executive order setting aside the OKA site to the Department of Land and Natural Resources, Division of State Parks, for park and recreational purposes. The area of the set-aside would be subject to the earlier approval of a lease of 14.8 acres  $\pm$  to the COH.

Lastly, pending formal documentation of the set-aside, granted the COH a right-of-entry to the OKA site to honor prior commitments of community activities.

Further, at its meeting of August 27, 1976, the Board under Agenda Item F-5, amended its previous action of April 9, 1976, Agenda Item F-13, by including the cancellation of Executive Order No. 1684 and revising the area to be set aside to the Department of Land and Natural Resources, Division of State Parks, for the Old Kona Airport State Recreation Area. The Board also authorized the Chairperson to take all necessary actions to remove an aviation easement previously required for airport use.

Executive Order No. 2876, setting aside the OKA site to the Department of Land and Natural Resources, Division of State Parks, was executed by then Governor George R. Ariyoshi on October 17, 1977.

In the years that followed, plans were written and drawn, construction and renovations occurred and various Board actions affected the OKA site. A chronology of major events is as follows:

- December 1977, Draft Interpretive Plan for the State park at Old Kona Airport was prepared by the Environmental Impact Study Corporation;
- July 1978, Revised Environmental Impact Statement for the State park at Old Kona Airport was prepared by the Environmental Impact Study Corporation and accepted by then Land Board Chairperson William Y. Thompson;

- General Lease No. S-5271 to the County of Hawaii covering 5.342 acres  $\pm$  for park and recreational purposes of a canoe storage facility was authorized by the BLNR at its meeting of April 10, 1992 under Agenda Item E-2, as amended;
- December 1993, Draft Project Development Report, Old Kona Airport State Recreation Area, was prepared by Akinaka and Associates, Ltd.;
- Temporary, non-exclusive easement for access and utilities purposes (portion of Kuakini Highway) was granted to the County of Hawaii by the BLNR at its meeting of May 27, 1994 under Agenda Item F-3, as amended. The temporary easement, identified as Grant of Non-Exclusive Easement S-5386, shall expire on May 26, 2009;
- March 1995, Construction completed on the Makae'o Walking/Jogging Path;
- 1995/1996, Community planning effort began in 1995 on the Phase I Landscaping Plan for the Makae'o Walking/Jogging Path. Tree planting and other landscape projects were completed during 1996 by various sub-contractors and community volunteers.
- April 2006, Final Design for the individual wastewater systems for the Events Pavilion, north beach restrooms and south beach restrooms were completed by Engineering Solutions, Inc.;
- April 2006, Final inspection completed for the barrier removal project at the Old Kona Airport State Recreation Area;

As a result of a discussion between the Honorable Harry Kim, Mayor of the County of Hawaii, and then Chairperson Peter T. Young, the Mayor expressed an interest in taking over the OKA site and developing it into a regional park for West Hawaii. The Mayor listed four (4) conditions for acceptance of the OKA site. They are:

1. Structural repairs to the Events Pavilion must be made;
2. ADA renovations in accordance with the consent decree shall be completed;
3. Compliance with EPA's large capacity cesspool requirements shall be met [Note: It was determined that the wastewater systems at the OKA site did not fall under the large capacity cesspool statute. However, since the



and burial sites, operations, etc., of the OKA site and will assist, to the extent practical, in their planning and development efforts.

No vehicles, equipment or employees will be transferred to the COH in this approval.

A draft of this submittal was e-mailed to the Mayor's office, the Department of Parks and Recreation and the Office of the Corporation Counsel.

Also, the submittal was both e-mailed and mailed to the Office of Hawaiian Affairs. No comments have been received.

RECOMMENDATIONS:

That the Board:

1. Approve of and recommend to the Governor of Hawaii, the issuance of an executive order withdrawing approximately 98.000 acres more or less, of the Old Kona Airport State Recreation Area (OKA site) from the operations of Executive Order No. 2876, which is under the control and management of the Department of Land and Natural Resources, Division of State Parks, subject to:
  - A. The Division of State Parks shall retain an area not to exceed 5.00 acres, which shall include the old hangar building, mobile office site and surrounding area for its Kona Sub-Unit baseyard together with Easement A, CSF No. 22183 and Easement 1, CSF No. 21,858;
  - B. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  - C. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - D. Review and approval by the Department of the Attorney General; and
  - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Find the OKA site to be an economic unit for the intended purpose;



- J. Review and approval by the Department of the Attorney General;  
and
  - K. Such other terms and conditions as may be prescribed by the  
Chairperson to best serve the interests of the State.
4. Authorize the cancellation of the following:
- A. General Lease No. S-5156 to the County of Hawaii covering 34.848  
acres for park and recreational purposes and General Lease No. S-  
5271 to the County of Hawaii, Department of Parks and Recreation,  
covering 5.342 acres for canoe storage facility upon execution of the  
Governor's executive order;
  - B. Sublease of General Lease No. S-5271 to Kai Opua Canoe Club  
upon execution of the Governor's executive order to the County of  
Hawaii with the understanding that a new lease between Kai Opua  
Canoe Club and the County of Hawaii shall be entered into upon  
said execution of the Governor's executive order;
  - C. Right-of-entry to the County of Hawaii to operate a temporary  
recreational rink for inline roller hockey upon commencement of the  
construction and management right-of-entry to the County of  
Hawaii;
  - D. Right-of-entry to Kai E Hitu Canoe Club upon commencement of  
the construction and management right-of-entry to the County of  
Hawaii; and
  - E. Special Use Permit No. H62148 to the County of Hawaii for  
construction of the sewer line project upon commencement of the  
construction and management right-of-entry to the County of  
Hawaii.
5. Enter into a Memorandum of Understanding with the County of Hawaii relating  
to the upgrading of the sewage disposal systems for the Events Pavilion, the north  
beach restrooms and the south beach restrooms. The County of Hawaii shall  
accept all responsibilities to upgrade the sewage disposal systems for the three  
above-mentioned facilities. The DLNR shall transmit to the County of Hawaii the  
avoidance cost of five hundred thousand dollars (\$500,000) to upgrade the three  
facilities with aerobic wastewater systems subject to:

adjacent to the said right-of-entry area in the control or use of the COH, its consultants, contractors and/or persons acting for or on its behalf;

- F. COH, its consultant, contractors and/or persons acting for or on its behalf, shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. The COH, its consultants, contractors, and/or persons acting for or on behalf, shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the right-of-entry area any such materials except to use in the ordinary course of business of the COH, its consultants, contractors, and/or persons acting for or on its behalf, and then only after written notice is given to the State of Hawaii, Department of Land and Natural Resources, of the identity of such materials and upon the State's consent which may be withheld at the State's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by the COH, its consultants, contractors and/or persons acting for or on its behalf, then the COH, its consultants, contractors and/or persons acting for or on its behalf, shall be responsible for the reasonable cost thereof. In addition, the COH shall or on its behalf, shall be responsible for the reasonable cost thereof. In addition, the COH shall insure that, its consultants, contractors, and/or persons acting for or on its behalf, execute affidavits, representations and the like from time to time at the State's request concerning the best knowledge and belief of the COH, its consultants, contractors and/or persons acting for or on its behalf, regarding the presence of hazardous materials on the right-of-entry area placed or released by the COH, its consultants, contractors and/or persons acting for or on its behalf.

The COH shall insure that, its consultants, contractors and/or persons acting for or on its behalf, agree to indemnify, defend, and hold the State of Hawaii, Department of Land and Natural Resources harmless, from any damages and claims resulting from the release of hazardous materials on the right-of-entry area occurring while the COH, its consultants, contractors and/or persons acting for or on its behalf, is in possession, or elsewhere if caused by the COH, its consultants, contractors and/or persons acting for or on its behalf.

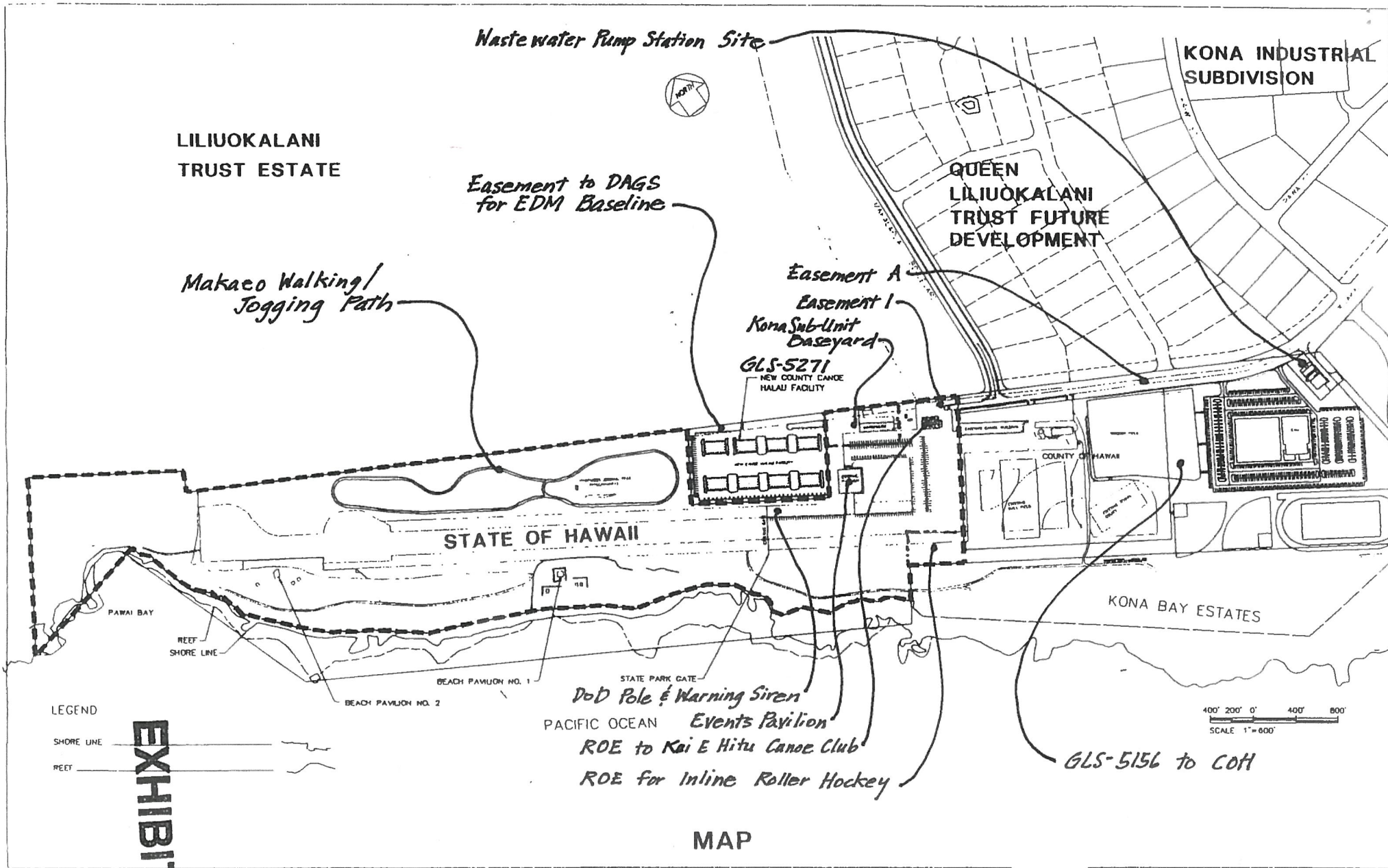


EXHIBIT A



## EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Amend Prior Board Approval of Nov. 16, 2007, Item E-2: Withdrawal from Governor's Executive Order No. 2876; Set Aside to the County of Hawaii for Park and Recreational Purposes; Authorize Cancellation of Various Encumbrances; Memorandum of Understanding with the County of Hawaii; Construction and Management Right of Entry to the County of Hawaii, Portions of the Land of Keahuolu and Lanihau-Nui, North Kona, Hawaii, Tax Map Keys: 3rd/7-5-05:07, 72, 73, 74, 79, 82,83.
Project / Reference No.:	
Project Location:	Portions of the Land of Keahuolu and Lanihau-Nui, North Kona, Hawaii, Tax Map Keys: 3rd/7-5-05:07, 72, 73, 74, 79, 82,83.
Project Description:	A Withdrawal and a Resetting Aside of State Lands to serve Public Purposes
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, item 43, that states "Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order," and Exemption Class No. 1, item 46, that states "Creation or termination of easement, covenants, or other rights in structures or land."
Cumulative Impact of Planned Successive Action in Same Place Significant?:	No, there is no significant cumulative impact since there are no successive actions in the same place.

**EXHIBIT 2**